



Alan C. Lloyd, Ph.D.
Agency Secretary

California Regional Water Quality Control Board
North Coast Region
Beverly Wasson, Chairperson

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Arnold
Schwarzenegger
Governor

August 23, 2005

Mr. Gary Bankhead
Kaiser Foundation
1950 Franklin Street, 12th Floor
Oakland, CA 94612

Dear Mr. Bankhead:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Kaiser Foundation Health Plan, Inc., Kaiser Medical Office Building #5 Project

File: Kaiser Medical Office Building #5, Kaiser Foundation Health Plan, Inc.
WDID No. 1B05017WNSO

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). It is being issued in response to Kaiser Foundation Health Plan, Incorporated's February 10, 2005 request for a Clean Water Act, Section 401, Water Quality Certification. On February 10, 2005, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Gary Bankhead on behalf of Kaiser Foundation Health Plan Inc., requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the fill of 0.74 acres of jurisdictional wetlands associated with the development of a 12.7 acre site located adjacent to the existing Kaiser Medical Buildings in Santa Rosa, Sonoma County. The Regional Water Board received a processing fee in the amount of \$2,693.00, and the application was deemed complete on May 3, 2005. Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received. The proposed project will cause disturbances to the waters of the state associated with Piner Creek and Santa Rosa Hydrologic Subarea No. 114.22, Russian River Hydrologic Unit No. 114.00.

The Regional Water Board is responsible for reviewing the impacts of potential projects on the watershed, and ensuring that the impacts are minimized, avoided if feasible, and mitigated for if unavoidable. Mitigation is typically required prior to, or in conjunction with, impacts to beneficial uses on-site. Mitigation may be accomplished through mitigation bank credit purchases, onsite wetland/swale creation, dedicating funds to watershed restoration projects, and similar types efforts. Regional Water Board staff have evaluated the alternatives analysis submitted for this project and determined that mitigation bank credits will effectively offset the permanent fill of 0.88 acres of on-site wetlands associated with the construction of this project. It has been brought to staff's attention that while such credits are currently unavailable on the

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Santa Rosa Plain, several Wetland Mitigation Banks are undergoing the review and approval process and intend to have credits available in the near future.

Due to the urgency of the Kaiser Medical Office Building Number 5 project, the lack of immediate mitigation bank credits, and the pending availability of credits, the Regional Water Board has allowed the Applicant a deferred mitigation ratio (see Additional Condition #8). This deferment of mitigation is the result of specific project circumstances assumes purchase of mitigation bank credits in the near future.

Project Description: The project involves the construction of a 2 story, 91,151 square foot medical office building located off of Old Redwood Highway, north of Fountain Grove Parkway, in Santa Rosa, Sonoma County (APNs 058-035-023, -024, -027, -028, 058-211-001, -002). As proposed, the medical office building would house areas for radiology, occupational medicine, ambulatory surgery with 4 operating rooms, sterile processing, a procedure suite with 3 procedure rooms, a pharmacy, conference rooms, café and facilities support. Accompanying infrastructure would include a 212,851 square foot parking lot with 458 parking spaces.

Also included in the construction proposal are paved surfaces to accommodate a loading dock, service yard, generator pad, gas yard, ambulance area, and patient loading area; and further includes the installation of site landscaping, and a water detention basin for storm water treatment. The purpose of the project is to complete the development of a medical facility and supporting infrastructure that will facilitate the general medical needs and welfare of people in the Sonoma County area.

Post construction Best Management Practices (BMPs) proposed include the installation of several 2-foot openings along the curb and gutter throughout the site to allow drainage of runoff into a series of proposed vegetated swales located on-site. Treatment of runoff will be done both through these swales, as well as through the proposed detention basin, before passive discharge into Piner Creek.

The original project proposal included the extension of an existing culvert within Piner Creek, for which the Applicant obtained a Streambed Alteration Agreement (CDFG 1603) from the California Department of Fish and Game (NOT # R3-2002-0171). This culvert is no longer included in the project proposal, and as such, the CDFG 1603 is no longer applicable to the project.

Historically, Stevenson Equipment, (which no longer occupies 3975 Old Redwood Highway), had an underground tank leak

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which caused petroleum hydrocarbon contamination of soils on the project site. A remedial treatment system was installed, and cleanup requirements were enforced during the construction of the Kaiser Medical Office Building #4 project. Regional Water Board staff have worked with the Applicant to ensure that the cleanup effort has been adequately addressed. In a letter dated May 11, 2005, plans for the modification/movement of the treatment system were agreed to. So long as the Applicant adheres to this agreement, cleanup efforts on the site will continue, and will not hinder the 401-certification process.

Construction is projected to take approximately 18 months, and is not proposed for the rainy season between October 15th and May 15th.

Receiving Water: Piner Creek and Santa Rosa Hydrologic Subarea No. 114.22,
Russian River Hydrologic Unit No. 114.00.

Filled or
Excavated Area: Total Area Impacted: 0.88 acre
Area Temporarily Impacted: 0.00 acre
Area Permanently Impacted: 0.88 acre

Isolated State Waters Impacted: 0.14 acre
Waters of the U.S Impacted: 0.74 acre

Federal Permit: The Applicant is in the process of obtaining an individual permit from the U.S. Army Corp of Engineers (Corps file #22416N, pending).

State and Local
Approvals: The original project proposal included the extension of an existing culvert within Piner Creek, for which the Applicant obtained a Streambed Alteration Agreement (CDFG 1603) from the California Department of Fish and Game (NOT # R3-2002-0171). This culvert is no longer included in the project proposal, and as such, the CDFG 1603 is no longer applicable to the project.

Compensatory
Mitigation: Compensatory Mitigation is required for this project. The Applicant is currently seeking established mitigation banks

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through which they can purchase 0.88 acres creation credits and 0.88 acres of preservation credits. If mitigation credits are not obtained prior to fill, the Applicant will be required to purchase credits at a minimum 1.5:1 mitigation ratio (1.32 acres creation credits and 0.88 acres preservation credits). An escalated mitigation ratio requirement to compensate for temporal loss if mitigation is not secured immediately following fill, has been set forth as Additional Conditions Number 8 (see section below).

Non-compensatory
Mitigation:

Non-compensatory mitigation measures have been incorporated into the project to reduce the potential impacts to water quality within the wetland features on the site. Work will be completed during the dry season to avoid sediment discharges to surface waters. Non-compensatory mitigation measures include the use of BMPs for sediment and erosion control, an approved Storm Water Pollution Prevention Program (SWPPP) that will be enforced during the construction phase to prevent excess siltation from runoff leaving the site, and conducting work during the low-flow or dry season. Disturbance to Piner Creek will be avoided during construction. Post-construction measures will be utilized to prevent discharge of pollutants during the life of the project.

CEQA Compliance:

The City of Santa Rosa, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for a Mitigated Negative Declaration (State Clearinghouse No. 2004112068), pursuant to CEQA.

Standard Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

- 3) The validity of any non-denial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The Regional Water Board shall be notified in writing at least five business days (working days are Monday – Friday) prior to the commencement of work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.
- 2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.
- 3) BMPs for erosion, sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters. Native seeding will be done on all exposed areas post construction to reduce future potential erosion concerns.
- 4) The Applicant will implement the Stormwater Pollution Prevention Plan (SWPPP) submitted to this office on March 30, 2005, titled *Santa Rosa Kaiser Medical Office Building 5 Post Construction BMP Analysis*, as well as the *Hydroseed and Hydrosprig Specification* and the *Bio-retention Swale Construction outline* documents submitted on April 5, 2005. Failure to implement the treatment plan as described in the above referenced plans will be considered a violation of this Water Quality Certification, and is subject to Regional Water Board enforcement actions.
- 5) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.

- 6) Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel shall be restored to as near their original condition as possible.
- 7) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 8) Mitigation credits must be obtained to compensate the loss of 0.88 acres of wetland on-site, and copies of Bill's of Sale shall be submitted to the Regional Water Board upon completion of purchase. Should mitigation credits be secured *prior* to wetland fill, the Applicant shall mitigate at a 1:1 mitigation ratio, securing 0.88 acres of creation credits and 0.88 acres of preservation credits. In the event that mitigation credits cannot be secured prior to fill of on-site wetlands, the Applicant will be required to purchase credits at a minimum 1.5:1 mitigation ratio (1.32 acres creation credits and 0.88 acres of preservation credits).

Assuming wetlands are filled prior to obtaining mitigation and construction begins Summer 2005, the following mitigation ratios shall apply:

In the event that mitigation credits are not secured by October 1, 2005, the Applicant shall purchase credits at a 2:1 mitigation rate, securing 1.76 acres of creation credits and 0.88 acres of preservation credits.

In the event that mitigation credits are not secured by February 1, 2006, the Applicant shall purchase credits at a 3:1 ratio. This will require the Applicant to secure 2.64 acres of creation credits and 0.88 acres of preservation credits.

In the event that mitigation credits are not secured by June 1, 2006, the Applicant shall purchase credits at a 4:1 ratio, securing 3.52 acres of creation credits and 0.88 acres of preservation credits.

Non-submittal of proof of mitigation (copies of Bill of Sale) by July 1, 2006 will be considered a violation of this Water Quality Certification, and is subject to Regional Water Board enforcement actions.

- 9) Yearly monitoring reports for the required compensatory mitigation shall be provided to the Regional Water Board by July 15 during each calendar year for a total of five years. Reports shall include photo documentation of the mitigation area. After five years have passed, the mitigation will be evaluated for successful attainment of the final success criteria, and a decision will be made whether additional mitigation measures are necessary to ensure that no net loss of wetland habitat occurs.

Reports shall be prepared by a professional consultant with in-depth experience in wetland ecosystem creation and function, as well as wetland mitigation monitoring techniques. Reports shall be submitted to the attention of staff member Andrew Jensen.

- 10) If flowing water is present at the time of construction, the work site shall be dewatered through the installation of sandbag and/or gravel cofferdams, and a by-pass pipe sufficient to handle any discernable flow changes, above and below the project reach. Installation of cofferdams and the by-pass pipe shall be performed in a manner that will minimize aquatic impact within the dewatered area.
- 11) Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to Waters of the State. At no time shall the Applicant use any vehicle or equipment, which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall not be located within 100 feet of Piner Creek or other waters of the state.
- 12) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.
- 13) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality
Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Kaiser Medical Office Building #5 (WDID No. 1B05017WNSO) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (enclosed).

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration:

The authorization of this certification for any dredge and fill activities expires on October 15, 2010, unless new information warrants revision of this determination before the expiration date. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Andrew Jensen of our staff at (707) 576-2683 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ, General
Waste Discharge Requirements for Dredge and Fill Discharges That Have
Received State Water Quality Certification ____

cc: U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street, San Francisco,
CA 94105